

On April 16, 2021 OWCP notified appellant of its preliminary overpayment determination that he received an overpayment of compensation in the amount of \$8,025.06 for the period February 28 to March 27, 2021 because he received an extra full schedule award payment in addition to the final schedule award payment. Under a paragraph entitled computation of the

overpayment, it noted that appellant should have received a supplemental payment for the number of days of his approved award during the month of March, but that an additional full periodic roll payment should not have been paid. OWCP further advised appellant of its preliminary determination that he was without fault in the creation of the overpayment. It provided him with an overpayment recovery questionnaire (Form OWCP-20) and advised that he should fully complete the Form OWCP-20 and submit supporting financial documentation. OWCP also provided an overpayment action request form and notified appellant that, within 30 days of the date of the letter, he could request a telephone conference, a final decision based on the written evidence, or a precoupment hearing.

On May 17, 2021 OWCP received appellant's request for a decision based on the written evidence, a completed Form OWCP-20, and supporting financial documentation. Appellant related that he was without fault in the creation of the overpayment and that he believed the payments he received were part of the five percent schedule award due to him.

By decision dated July 26, 2021, OWCP finalized its preliminary overpayment determination that appellant received an overpayment of compensation in the amount \$8,025.06 for the period February 28 through March 27, 2021. It further found that he submitted no evidence refuting the amount of the overpayment. OWCP also found that appellant was without fault in the creation of the overpayment, but denied waiver of recovery of the overpayment. Further, it noted that repayment of the full amount, \$8,025.06, was due within 30 days. OWCP advised appellant that if he was unable pay the debt in full to arrange a monthly payment amount.

The Board finds that this case is not in posture for decision. The Board finds that OWCP failed to provide adequate facts and findings in support of its July 26, 2021 decision. OWCP is required by statute and regulation to make findings of fact provide a statement of reasons.¹

OWCP failed to provide adequate findings explaining how the overpayment was calculated beyond noting he received an extra schedule award.

Waiver of the overpayment was also denied. OWCP simply noted that an OWCP Form-20 and supporting documentation had been submitted. Section 8129 of FECA provides that an overpayment of compensation shall be recovered by OWCP unless "incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of FECA or would be against equity and good conscience."² However, OWCP made no specific findings regarding OWCP-20 form and financial documentation appellant submitted as to whether recovery of the overpayment would defeat the purpose of FECA or be against equity and good conscience. The Board, therefore, finds that the case must be remanded for a new preliminary overpayment determination, which provides proper findings of fact and conclusions of law and affords appellant due process rights to seek waiver of recovery of the overpayment.

¹ 5 U.S.C. § 8124(a) provides that OWCP shall determine and make a finding of facts and make an award for or against payment of compensation. 20 C.F.R. § 10.126 provides that its final decision shall contain findings of fact and a statement of reasons. *See also Order Remanding Case, H.B.*, Docket No. 19-0356 (issued March 20, 2020); *Order Remanding Case, H.O.*, Docket No. 19-0198 (issued July 3, 2019).

² 5 U.S.C. § 8129.

IT IS HEREBY ORDERED THAT the July 26, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded to OWCP for further proceedings consistent with this order of the Board.

Issued: May 4, 2022
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board